

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

BERNARD CRENSHAW,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL NO. 09-387-GPM
)	
TERRY CALIPER,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

MURPHY, District Judge:

After a jury trial on Plaintiff Bernard Crenshaw's Eighth Amendment claim of deliberate indifference to a serious medical need, Judgment was returned in favor of Defendant Terry Caliper and against Plaintiff (Doc. 70). Defendant then entered a Bill of Costs (Doc. 71) to which Plaintiff has objected (Doc. 75). Defendant filed a reply to Plaintiff's objection (Doc. 78). The Court, having considered the Bill of Costs and the parties' arguments, **GRANTS** Defendants Bill of Costs.

Defendant seeks \$800.00 in fees for printed or electronically recorded transcripts necessarily obtained for use in the case consisting of: \$53.60 for the 34-page deposition transcript and postage for the deposition transcript of Bernard Crenshaw; \$389.60 for the deposition transcripts, exhibits included in the depositions, and postage and handling fees for the depositions of Dr. Aldridge and Ms. Caliper; \$281.80 for the 68-page deposition transcript of Bernard Crenshaw; and \$75.00 for a DVD copy of Bernard Crenshaw's deposition testimony.

Federal Rule of Civil Procedure 54(d) establishes a presumption that the prevailing party is entitled to costs. *Cefalu v. Village of Elk Grove*, 211 F.3d 416, 427 (7th Cir. 2000). The Seventh Circuit Court of Appeals has stated that in light of this presumption, the district court's discretion is "narrowly confined."

See Congregation of the Passion, Holy Cross Province v. Touche, Ross & Co., 854 F.2d 219, 221-22 (7th Cir. 1988). In general, “only misconduct by the prevailing party worthy of a penalty ... or the losing party’s inability to pay will suffice to justify denying costs.” *Id.* at 222; *see also Contreras v. City of Chicago*, 119 F.3d 1286, 1295 (7th Cir. 1997).

The term “costs” as it is used in Rule 54(d) is defined in 28 U.S.C. § 1920, and courts are allowed to interpret the meaning of the phrases used in that section. *Cenr v. Fusibond Piping Sys., Inc.*, 135 F.3d 445, 454 (7th Cir. 1998). Under § 1920, a federal court may tax as costs the following: (1) fees of the clerk and marshal; (2) fees of the court reporter for all or any part of the stenographic transcript necessarily obtained for use in the case; (3) fees and disbursements for printing and witnesses; (4) fees for exemplification and copies of papers necessarily obtained for use in the case; (5) docket fees under 28 U.S.C. § 1923; and (6) compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under 28 U.S.C. § 1828. After a district court determines that the requested costs are statutorily recoverable under § 1920, the court must then determine whether such costs were both reasonable and necessary. *Cenr*, 135 F.3d at 454. The proper inquiry is whether a particular cost was “reasonably necessary” to the case at the time it was incurred, not whether it resulted in use in a motion or during trial. *Id.* at 455.

The Court finds Defendant’s costs reasonably necessary to the case. Defendant’s Bill of Costs (Doc. 71) is therefore **GRANTED**. Costs in the amount of **\$800.00** are taxed in favor of Defendant Terry Caliper.

IT IS SO ORDERED.

DATED: January 24, 2012

s/ *G. Patrick Murphy*
G. PATRICK MURPHY
United States District Judge